

**STATE OF CONNECTICUT  
BOARD OF EXAMINATION FOR NURSING**

Department of Public Health

Petition No. 2003-0430-011-017

vs.

Christine Zukauskas, LPN, Lic. No. 023016

**MEMORANDUM OF DECISION**

***Procedural Background***

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated July 30, 2003. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Christine Zukauskas, LPN (hereinafter "respondent") which would subject respondent's licensed practical nurse license to disciplinary action pursuant to Conn. Gen. Stat. §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to the public health and safety. On August 20, 2003, the Board ordered, pursuant to its authority under §§ 4-182(c) and 19a-17(c) of the General Statutes of Connecticut, that respondent's practical nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing on or about August 20, 2003, scheduling a hearing for September 3, 2003. Dept. Exh. 1. Pursuant to respondent's request the hearing was continued and rescheduled to January 21, 2004. Dept. Exh. 3.

Respondent was provided notice the hearing and charges against her. The initial Notice of Hearing, Summary Suspension and Statement of Charges were delivered by the State Marshal to respondent's address of record at 88 Westbury Park Road, Waterbury, Connecticut on or about August 26, 2003. The notice of rescheduled hearing was delivered to the respondent by certified mail on September 10, 2003. Dept. Ex. 1

The Board concludes that a sufficient attempt was made to provide respondent with the Notice of Hearing and Statement of Charges, and notice of the rescheduled hearing.

The hearing took place on January 21, 2004, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was not present during the hearing and was not represented by council. Transcript, p. 2.

Respondent did not file an Answer to the Charges. During the hearing the Department made an oral motion to deem the allegations admitted. The Board granted the Department's motion. Transcript, p. 4, 6-7.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

### *Findings of Fact*

Based on the testimony given and the exhibits offered into evidence at the hearing, the Board makes the following Findings of Fact:

1. Respondent was issued licensed practical nurse license number 023016 on June 1, 1989. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-3
2. Respondent was employed as a licensed practical nurse at Village of East Farms Assisted Living, Waterbury, Connecticut since on or about September 27, 2002. Dept. Exh. 1-2-6.
3. From approximately December 2002 to April 2003, while working as a licensed practical nurse at Village of East Farms Assisted Living, Waterbury, Connecticut, respondent diverted and/or misappropriated from residents the controlled substances Percocet and Tylenol with Codeine for her own personal use. Dept. Exh. 1.
4. From approximately December 2002 to April 2003, respondent abused or excessively used Percocet and/or Tylenol with Codeine. Dept. Exh. 1.
5. On April 10, 2003, respondent provided a written and sworn statement to agents of the State of Connecticut, Department of Consumer Protection, Drug Control Division admitting to diverting controlled substances from Village of East Farms Assisted Living for her personal consumption. Dept. Exh. 1, pp. 2-6 to 2-8.
6. Respondent's abuse of Percocet and/or Tylenol with Codeine may affect her practice as a licensed practical nurse.

### *Conclusions of Law and Discussion*

In consideration of the above Findings of Fact, the following conclusions are rendered: Christine Zukauskas held a valid licensed practical nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Summary Suspension Order, Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §§ 4-177(a) and (b), and 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §§ 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat.* § 4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

**Paragraph 3** of the Statement of Charges alleges that from approximately December 2002 to April 2003, while working as a licensed practical nurse at Village of East Farms Assisted Living, Waterbury, Connecticut respondent diverted and/or misappropriated from residents, Percocet and/or Tylenol with Codeine, for her own personal use.

**Paragraph 4** of the Statement of Charges alleges on or about December 2002 to April 2003, respondent abused or utilized to excess, Percocet and/or Tylenol with Codeine.

**Paragraph 5** of the Statement of Charges alleges that respondent's abuse of Percocet and/or Tylenol with Codeine does and/or may affect her practice as a licensed practical nurse.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to § 19a-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the Statement of Charges to be admitted.

The General Statutes of Connecticut § 20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17.

(b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in carrying out usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in Paragraphs 3, 4 and 5 of the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b)(2) and (5) and 19a-17.

***Order***

Pursuant to its authority under *Conn. Gen. Stat.* §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

That for Paragraphs 3, 4 and 5 of the Statement of Charges, respondent's licensed practical nurse license, number 023016, is revoked effective the date this Memorandum of Decision is signed by the Board.

The Board of Examiners for Nursing hereby informs respondent, Christine Zukauskas, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Newington, Connecticut this 7th day of April 2004.

BOARD OF EXAMINERS FOR NURSING

By 